

# EXHIBIT 5

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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RUBY FREEMAN and WANDREA MOSS,

Plaintiffs,

v.

24 CV 6563 (LJL)

RUDOLPH W. GIULIANI,

Defendant.

Conference

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New York, N.Y.  
November 26, 2024  
10:00 a.m.

Before:

HON. LEWIS J. LIMAN,

District Judge

APPEARANCES

WILLKIE FARR & GALLAGHER LLP  
Attorneys for Plaintiffs

BY: AARON E. NATHAN  
MICHAEL J. GOTTLIEB  
MERYL GOVERNSKI  
M. ANNIE HOUGHTON-LARSEN

CAMMARATA & DE MEYER P.C.  
Attorneys for Defendant

BY: JOSEPH CAMMARATA

-and-

KENNETH CARUSO  
DAVID LABKOWSKI

1 (Case called)

2 MR. NATHAN: Good morning, your Honor, Aaron Nathan,  
3 Willkie Farr & Gallagher, for plaintiffs and receivers, Ruby  
4 Freeman and Wandrea Moss. I'm joined by my colleagues, Michael  
5 Gottlieb, Meryl Governski, and Annie Houghton-Larsen, also of  
6 Willkie Farr.

7 THE COURT: Good morning.

8 MR. CAMMARATA: Joseph Cammarata, Cammarata & De Meyer  
9 P.C., 456 Arlene Street, Staten Island, New York 10314, for the  
10 defendant, Rudolph W. Giuliani.

11 THE COURT: Good morning, and welcome to the case, Mr.  
12 Cammarata.

13 MR. CAMMARATA: Thank you.

14 MR. CARUSO: Good morning, your Honor, Kenneth Caruso.

15 THE COURT: Good morning, Mr. Caruso.

16 MR. LABKOWSKI: Good morning, your Honor, David  
17 Labkowski.

18 THE COURT: Good morning.

19 And I see we have got Mr. Giuliani here. Welcome,  
20 sir.

21 We have got a number of matters before the Court.

22 It appears to me that the first matter that I should  
23 handle, unless there is an objection, is the motion of  
24 Mr. Caruso and his colleague to withdraw as counsel.

25 Any objection to me handling that as first order of

1 business?

2 MR. NATHAN: No, your Honor.

3 MR. CAMMARATA: No, your Honor.

4 THE COURT: Is there any objection from Mr. Giuliani  
5 to the substitution of counsel?

6 MR. CAMMARATA: There is not, your Honor.

7 THE COURT: Mr. Giuliani.

8 MR. GIULIANI: No, your Honor.

9 THE COURT: Mr. Cammarata, I am going to hear from you  
10 later with respect to your request for an extension, but if I  
11 do not grant that, I want to be sure that you're still in the  
12 case and that you will be in court on the 16th in that event,  
13 if I allow Mr. Caruso to withdraw.

14 Can I be confident with respect to that?

15 MR. CAMMARATA: Yes, your Honor. My client and I will  
16 comply with all orders of the Court.

17 THE COURT: Including to be present on the 16th of  
18 January.

19 MR. CAMMARATA: Yes. If the application is denied.

20 THE COURT: And then the other question that I have  
21 got is really addressed to Mr. Caruso.

22 Mr. Caruso, I've been going through your application  
23 of whether there exists good cause for you to withdraw. I've  
24 got questions about that, which I would address in camera in  
25 the robing room if you're still pressing that.

1           It was not clear to me from the papers whether, given  
2           that there is a substitution of counsel and given the assurance  
3           that I just received from Mr. Cammarata, that if I decide to go  
4           forward on the 16th, he and his client will be here, whether I  
5           actually need to address the question of good cause. I don't  
6           think that it's quite supported on the papers before me.

7           What's your position, sir?

8           MR. CARUSO: If the Court is going to grant this  
9           application on consent, based on Mr. Cammarata's  
10          representation, then there is no need for the Court to address  
11          that issue.

12          THE COURT: Mr. Nathan, do you agree with that?

13          MR. NATHAN: Well, plaintiffs are not in a position to  
14          give that consent absent the assurance that Mr. Cammarata and  
15          his client are prepared to stick to the schedule as ordered by  
16          the Court. Sounds like we are halfway there.

17          I think the question of whether that extension will be  
18          granted on the basis that new counsel has appeared is still on  
19          the table. I think what we would need to hear from Mr.  
20          Cammarata is that his new arrival to the case won't be treated  
21          as a basis for further extension requests, because plaintiffs  
22          would object to that.

23          THE COURT: I should make it clear, before I hear  
24          argument with respect to that, Mr. Cammarata, that in a series  
25          of cases I have held that the appearance of new counsel is not

1 itself a basis for an extension. I have held that way back in  
2 a case called *Furry Puppet*, a case called *Cheng*, another case  
3 called *In Re Elysium Health-Chromadex Litigation*.

4 The proposition is sort of an obvious one, which is  
5 that requests for extension may be supportable under Rule 16,  
6 but you can't contrive a basis for an extension by changing  
7 counsel.

8 I assume you understand that proposition of law and  
9 that doesn't change the answer that you just gave me.

10 MR. CAMMARATA: I do, your Honor. However, I would  
11 like to be heard on it before your Honor today.

12 THE COURT: I will give you that opportunity.

13 I am going to grant the application of Mr. Caruso and  
14 his colleague to withdraw as counsel.

15 Under Local Rule 1.4, an attorney for a party may be  
16 relieved or displaced only by order of the Court. When there  
17 is no substitution of counsel, the order may be issued only  
18 upon a showing by affidavit or otherwise of satisfactory  
19 reasons for withdrawal or displacement, and the posture of the  
20 case, and whether or not the attorney is asserting a retaining  
21 or charging lien.

22 The movant is relieved of the obligation to submit an  
23 affidavit when there is a stipulation for substitution of  
24 counsel signed off on by the client. In this case there is  
25 such a stipulation.

1           Based on the record before me, I would not have found  
2           that there was good cause to warrant granting the withdrawal of  
3           counsel pursuant to the request made to me by Mr. Caruso and  
4           Mr. Labkowski. That motion was based on a claim of fundamental  
5           disagreement or an unreasonably difficult representation under  
6           Rule 1.16(c) of the New York Rules of Professional Conduct. In  
7           essence, and without disclosing the confidential communications  
8           submitted to me, the defendant took a position with respect to  
9           his participation in discovery that appears to have raised  
10          issues with respect to fundamental disagreement or unreasonably  
11          difficult representation. But the Court finds that that does  
12          not itself present a fundamental disagreement.

13          In short, there does not appear to be an instance  
14          where there is an objection that could be made that counsel  
15          would be ethically prohibited from making to the Court with  
16          respect to discovery, there is no obstacle to counsel objecting  
17          to any of the discovery that plaintiffs seek to take, and no  
18          fundamental disagreement on the record before me would prevent  
19          counsel from lodging those objections.

20          It may be that the Court would reject any objections  
21          or find that they are waived and may enter an order with  
22          respect to discovery, but, in that instance, the defendant  
23          would not have a choice but to comply with the Court order or  
24          to take it up elsewhere. It would not reflect a strategic  
25          disagreement.

1           The Court nonetheless finds that attorneys Caruso and  
2           Labkowski may withdraw as counsel, given that Mr. Cammarata has  
3           appeared as substitute counsel via notice of appearance signed  
4           by the defendant in compliance with Local Rule 1.4, based upon  
5           the assurances that Mr. Cammarata will be present, as well as  
6           his client, on the 16th if I deny the request for an extension.

7           In short, the way I read the rules is that an  
8           affidavit establishing good cause is particularly required in  
9           an instance where the substitution of counsel or new counsel  
10          would result in there being a delay in the proceedings. Judge  
11          Furman's decision in *New York v. Department of Commerce* at 2019  
12          WL 2949908 supports that proposition. But where there is no  
13          basis to believe that substitution of counsel will result in  
14          there being a delay, I find that there is no need for there to  
15          be good cause in this case.

16          That takes care of the first issues.

17          Mr. Caruso, Mr. Labkowski, you're relieved and you may  
18          remain in the gallery or you may leave. It is up to you.

19          MR. CARUSO: Thank you. I'm sorry it came to this.

20          MR. LABKOWSKI: Thank you, your Honor.

21          THE COURT: Have a good day and a good Thanksgiving to  
22          both of you.

23          MR. CARUSO: Same to you.

24          MR. LABKOWSKI: Thank you, Judge.

25          THE COURT: I think the next issue is the request for

1 an extension of the trial date of January 16, so I'll hear from  
2 you, Mr. Cammarata, with respect to that.

3 MR. CAMMARATA: Thank you, your Honor.

4 There are multiple reasons why I'm requesting that the  
5 trial be adjourned from the January 16 date, and the  
6 application would be for a reasonable amount of time of 30  
7 days, as I don't believe there would be a prejudice to the  
8 plaintiff, obviously; to my client, the defendant; and to this  
9 Court.

10 Your Honor, this is a civil case. My client has  
11 multiple cases that he is defending against in multiple  
12 jurisdictions, such as New York, Arizona, Georgia, Colorado,  
13 and Washington, D.C. As I'm sure this Court may know, there  
14 was also a contempt motion filed against my client in  
15 Washington, D.C. that's returnable, I believe, in the middle of  
16 December.

17 THE COURT: Mr. Cammarata, let me interrupt you for a  
18 second just to say that don't assume that I know anything that  
19 has not been presented to me in the papers filed before me.  
20 I'm aware that there is press that covers things having to do  
21 with your client, but I've actually tried to blind myself to  
22 that press. Anything you want me to know, tell me. Don't  
23 assume that I know something that you have not told me or the  
24 plaintiffs haven't told me.

25 MR. CAMMARATA: There was a contempt motion filed in

1 D.C. against my client that's returnable in the middle of  
2 December, so he is defending multiple criminal cases and civil  
3 cases in multiple jurisdictions around this country. He has to  
4 prepare for those cases, and he has to put on a formidable  
5 defense on those cases, as well as this one. I know this is  
6 the case that's in front of you.

7 Quite frankly, your Honor, I know it's not the only  
8 component that you would consider, but this is a very strong  
9 component. I recently got on this case, about nine days ago.  
10 I have quickly met and conferred with my client down in the  
11 State of Florida. I'm moving to get everything together as  
12 quickly as possible to comply with all the Court orders before  
13 this Court to produce document production.

14 I feel, and now I could say this -- I would have said  
15 it if counsel was still here -- what we have done in the last  
16 five to nine days on this case hasn't been done in the last  
17 five to nine weeks on this case.

18 I am still getting up to speed. I have to meet and  
19 confer with my client and prepare for a trial less than 40 days  
20 from now. I don't think there would be prejudice to this Court  
21 or to the plaintiff if it's granted.

22 My client --

23 THE COURT: Slow it down. The court reporter is  
24 trying to capture your words. I don't have a time limit on  
25 this. Take your time.

1 MR. CAMMARATA: In addition to me getting up to speed  
2 and putting on an ethical and formidable defense for my client  
3 and be best prepared possible, I would need more time than the  
4 deadline that's set to start the trial on January 16. If we  
5 can move the trial to the end of January or middle of February,  
6 that would give the defendant the opportunity to properly  
7 defend himself.

8 My client is also requesting that the adjournment be  
9 granted based upon his involvement with the presidential  
10 inauguration that is taking place, and events are starting on  
11 the 16th and, I believe, going to the 22nd is the duration of  
12 time. My client regularly consults and deals directly with  
13 President-Elect Trump on issues that are taking place as the  
14 incoming administration is afoot, as well as inauguration  
15 events.

16 My client wants to exercise his political right to be  
17 there and his position of support and consultation to the new  
18 administration.

19 THE COURT: I realize it's somewhat inconsistent with  
20 the first point that you made about you wanting sometime  
21 personally, but with respect to the 16th, I have not  
22 conferred -- I don't know what the plaintiffs' position is, but  
23 are you available on the 13th and the 14th of January?

24 MR. CAMMARATA: I don't have my electronic calendar.  
25 I would have to write the Court.

1 THE COURT: Can you ask your client whether he is  
2 available on the 13th and the 14th. He has got his iPad with  
3 him.

4 MR. GIULIANI: This is not the right calendar, your  
5 Honor. It has nothing on it, including events that I know  
6 exist. I can find out at a recess.

7 MR. CAMMARATA: Your Honor, I can find out from my  
8 client, or I can write the Court by tomorrow, 10 a.m., as to  
9 whether -- or he can make a call and we can return back today.

10 THE COURT: Let's put that to the side for the moment.  
11 Let me hear the remainder of your argument.

12 MR. CAMMARATA: The remaining issue in this case is  
13 the Florida Homestead litigation. That's the chief component  
14 of this.

15 THE COURT: There are two issues for trial on the  
16 16th. One is the Florida Homestead, which is the subject of  
17 the summary judgment motion, and then the other is the World  
18 Series rings, plus anything else that would be ripe at the time  
19 of the 16th.

20 MR. CAMMARATA: Right. I understand that.

21 THE COURT: The only two that have been scheduled  
22 right now are the World Series rings and the Homestead.

23 MR. CAMMARATA: This has to do with property that is  
24 in the State of Florida.

25 It's important for this Court to note that, on

August 5, 2024, the judgment against the defendant was recorded here and also in Florida. I believe that there was venue shopping to come to this court, and I believe that that also is creating an impediment to getting this case resolved quicker.

THE COURT: Isn't that actually now fully briefed in front of me? There is an argument on summary judgment with respect to that. My expectation is to resolve that issue expeditiously. I hear what you're saying, but I'm not sure that that provides a justification for moving the date of the 16th, does it?

MR. CAMMARATA: I could agree with the Court on that. However, as far as my preparation is concerned, now I'm scaling back three more days on a case of this magnitude that there is a lot of work to do, considering where previous counsel has left my client. Previous counsel has left my client essentially without counsel for several weeks. I'm now picking up the pieces of previous counsel and moving this case forward.

I need more time to prepare to put on a formidable defense for my client. I am asking for the Court for a few weeks, that there would be no prejudice to plaintiffs in this matter.

Ninety percent of the property, if I'm not mistaken, has already been turned over. I just received documents from plaintiffs' counsel right now as far as affidavits and power of attorneys to get the co-op shares turned over. We are working

1 on -- I'll be working with my client to get the title for the  
2 Mercedes turned over.

3 There is a pending appeal on this overall matter, as  
4 well as a notice of appeal in the Second Circuit.

5 I think that the time to give me of a few weeks is not  
6 an unreasonable request. I'm not asking for 60 days or 90  
7 days. I'm asking for 30 days. If we could push the trial to  
8 mid February, I can prepare a defense for my client that would  
9 be an ethical and worthy defense that he deserves.

10 THE COURT: Let me hear from plaintiffs.

11 MR. NATHAN: Thank you, your Honor.

12 The standard here is good cause, and I don't think we  
13 have heard anything from defendant's counsel that would  
14 constitute good cause in these circumstances.

15 Counsel mentioned the press of other business, but I  
16 don't think anything that we heard about is new other than the  
17 contempt motion. Everything else could have been raised long  
18 ago if it was a valid basis for an extension of these  
19 deadlines.

20 And the contempt motion, just to bring your Honor up  
21 to speed, is a motion that we filed in the district court in  
22 D.C. relating to the defendant's violations of the consent  
23 injunction, barring him from continuing to defame our clients  
24 in that case.

25 There is a hearing on that motion scheduled for

1 December 12, but as far as we are concerned, that hearing is  
 2 necessitated by the defendant's own conduct and shouldn't be a  
 3 basis for him to procure an extension of deadlines in these  
 4 cases, for the same reason that obtaining new counsel wouldn't  
 5 constitute good cause.

6 Everything else that we have heard, other than the  
 7 venue objections, which I'll get to in a moment, are arguments  
 8 that are essentially derivative of counsel's appearance in this  
 9 case at this late date. We don't think that constitutes good  
 10 cause as a categorical matter, but certainly, in these  
 11 circumstances, granting an extension of deadlines in an already  
 12 compressed schedule, because the defendant apparently made some  
 13 statement or demand of his former counsel that was, in their  
 14 view, incompatible with their continued representation would  
 15 just draw a roadmap for defendants to procure extensions under  
 16 circumstances that would disrupt the efficient administration  
 17 of justice more generally, and in this case would throw off a  
 18 schedule that I think everyone acknowledges need to proceed  
 19 expeditiously.

20 With respect to the venue objections, it's true we  
 21 registered our judgment in Florida. We also registered our  
 22 judgment here, where the defendant has not objected to personal  
 23 jurisdiction or venue.

24 There have been abstention arguments raised in the  
 25 summary judgment briefs, but no abstention argument that would

1 warrant intra-federal court abstention.

2           The argument for proceeding in Florida, to the extent  
3 it would have had any validity, which is something we could  
4 address separately if your Honor was interested in that  
5 question, has been conclusively waived under Rule 12 by the  
6 failure to raise it in the defendant's initial responsive  
7 pleading.

8           And then stepping back, this is a case that needs to  
9 move forward. It's a case where the defendant has already, I  
10 would say, been lackadaisical, at best, and intentionally  
11 obstructive, at worst, with respect to deadlines, and we are  
12 already in a situation where the Court has had to grant a  
13 motion to compel compliance with requests for production.

14           There are deadlines today for the defendant's  
15 compliance or responses to outstanding interrogatory requests  
16 and for compliance with an order granting the motion to compel.  
17 And as of this morning, pursuant to the instructions that the  
18 Court is aware of and blessed in its order on Friday, the  
19 receivers asked the defendant to either produce certain  
20 information by this hearing or explain by 3 p.m. yesterday why  
21 that would be impossible. We heard nothing by 3 p.m. yesterday  
22 and so far have received nothing in response to those  
23 directives.

24           This is just not a situation where, despite Mr.  
25 Cammarata's best efforts, anything like compliance is

1 happening, and we don't think that that behavior should be  
2 rewarded by an extension of the discovery schedule or the trial  
3 schedule in this case.

4 THE COURT: Mr. Cammarata, I'll permit you to be  
5 heard.

6 Mr. Nathan, do you have a sense right now as to how  
7 many witnesses you would have on the Homestead case, if that  
8 goes to trial, and how many on the World Series rings?

9 MR. NATHAN: I think in the Homestead case the answer  
10 is one. That would be the defendant. And in the rings case  
11 the answer would be two, which would be the defendant and the  
12 intervenor, who is the claimant with respect to those rings. I  
13 say that subject to change, of course, depending on what  
14 discovery responses reveal, should we receive them.

15 THE COURT: What's the status of the subpoena to  
16 Mazars?

17 MR. NATHAN: We have received a response and are  
18 reviewing it.

19 THE COURT: Mr. Cammarata, you wanted to be heard?

20 MR. CAMMARATA: Yes. Thank you, your Honor.

21 The D.C. contempt motion that Mr. Nathan has spoke  
22 about, I believe, is by design. It's smack in the middle of  
23 the preparation for this trial. It is returnable on  
24 December 12, which requires my client to be in D.C., my client  
25 to concentrate his energies on opposing a contempt motion

1 which, by the way, could have been brought any time, even after  
2 the trial before your Honor.

3 But the need to bring it now was to bombard, seek, and  
4 destroy the defendant, not give him enough time to reply to  
5 unrealistic demands, not give my client enough time to put on a  
6 defense, and, quite frankly, a request has been made to have a  
7 deposition of my client between the week of Christmas and New  
8 Year's, where it's a holiday that my client travels.

9 There is not enough breathing room for my client to do  
10 this trial, to defend against the contempt motion in D.C., to  
11 defend against six or seven other cases in other jurisdictions,  
12 and for me to put the defense on that that I need. There is no  
13 prejudice if an extension of time is granted.

14 That contempt motion, make no mistake, was placed  
15 smack in the middle of the preparation of the trial that is  
16 ordered to start on January 16. There is no statute of  
17 limitations that could have been blown if the contempt motion  
18 was brought after this trial. It's a strategic effort to get  
19 my client to defend against something that can lead to civil  
20 sanctions and potentially incarceration.

21 So that's where his main focus is right now. His main  
22 focus is to avoid sanctions and to avoid potential  
23 incarceration, if that is an option that the Court is willing  
24 to entertain.

25 THE COURT: Anything else, Mr. Cammarata?

1 MR. CAMMARATA: Yes, your Honor.

2 You know what, my office -- there has been attempts to  
3 have my office slow down, and I'm not saying it's coming from  
4 plaintiffs' counsel, but there have been numerous threats of,  
5 get off the case, the bar is going to be notified. You are  
6 going to -- these type of things. It's important. It was  
7 echoed.

8 The professional rules of conduct of New York was as  
9 cited by Mr. Gottlieb essentially stating, in a letter to this  
10 Court that was published, that by virtue of me having a press  
11 conference outside of the law offices of Willkie Farr, that I  
12 might be conducting myself unethically, again, a distraction  
13 and a redirection of our --

14 THE COURT: Mr. Cammarata, with respect to that  
15 reference, there is no request for relief yet with respect to  
16 whether having a press conference outside of your adversary's  
17 offices is a violation of the rules of ethics, and I am not  
18 going to opine with respect to that or with respect to whether  
19 it violates other civil laws that I think we can all imagine  
20 what those laws are.

21 But to complain that your office is being threatened  
22 when you have a press conference outside the offices of the  
23 other law firm is kind of hard to take.

24 Are there any other arguments that you have got that I  
25 have not heard?

1 MR. CAMMARATA: That's it, your Honor. Thank you.

2 THE COURT: Anything else from you Mr. Nathan?

3 MR. NATHAN: Just one point about the contempt motion.

4 So there is no misunderstanding, the injunction that  
5 is the subject of that contempt motion was an injunction  
6 entered earlier this year in a parallel case brought after the  
7 trial verdict against Mr. Giuliani in the District of Columbia.

8 Ultimately, through a series of events that transpired  
9 in the bankruptcy court, the automatic stay was lifted for the  
10 purpose of the defendant agreeing to the substance of that  
11 injunction and waiving any right to appeal. The district court  
12 then entered it. That all happened in May of this year, I  
13 believe.

14 And the idea that we then chose the timing of the  
15 contempt motion to coincide with anything in these proceedings  
16 is just not true. That timing was occasioned by the  
17 defendant's own violations of the consent injunction just a  
18 couple of weeks ago. We responded immediately because the  
19 point of the injunction is to keep him from continuing to  
20 defame our clients. And then the Court scheduled a hearing for  
21 the 12th that Mr. Giuliani has not asked to extend or adjourn.

22 THE COURT: I'm prepared to rule.

23 The request for an adjournment of the trial and other  
24 interim dates raised by defendant's new counsel on November 15,  
25 2024, turnover action, docket number 121 is denied for lack of

1 good cause.

2 By letter motion, the defendant requested that the  
3 trial currently set for January 16, 2025 be adjourned until on  
4 or after January 22, 2025. The Court construes the request as  
5 made under Rule 16, which allows an existing scheduling order  
6 to be modified "only for good cause and with the judge's  
7 consent." Federal Rule of Civil Procedure 16(b)(4).

8 Good cause in the context of the modification of a  
9 discovery schedule generally requires the movant to show that  
10 "despite due diligence, it could not have reasonably met the  
11 scheduled deadlines." *Furry Puppet Studio, Inc. v. Fall Out*  
12 *Boy*, 2020 WL 4978080 at \*1-2 (S.D.N.Y. Feb. 24, 2020). That  
13 means showing that "need for more time was neither foreseeable  
14 nor its fault in refusing to grant the continuance would create  
15 a substantial risk of unfairness to that party."

16 Incompatible with a finding of due diligence or  
17 factors, including "carelessness, an attorney's otherwise busy  
18 schedule, or a change in litigation strategy." *Id.*

19 Finally, even after a showing of good cause, it  
20 "remains within the sound discretion of the district judge  
21 whether to grant a modification or not." *Id.*

22 As a general matter, substitution of counsel alone  
23 does not constitute good cause. A party cannot restart the  
24 litigation clock by firing one counsel and hiring another.  
25 *Cheng v. Via Quadronno LLC*, 2022 WL 1210839 at \*4 (S.D.N.Y.

1 Apr. 25, 2022); *In Re Elysium Health-Chromadex Litigation*, ECF  
2 number 130, (Feb. 14, 2020) (denying motion for an extension  
3 based on appearance of new counsel).

4 Here, defendant has already sought and received  
5 multiple extensions in this matter. See turnover action,  
6 docket numbers 28, 39, 56, 92, and has missed multiple  
7 deadlines. Defendant has not shown anything close to "due  
8 diligence" with respect to the discovery schedule. Nor does  
9 defendant make any well-founded argument that a trial on  
10 January 26, 2025 leaves him with insufficient time to prepare.

11 Counsel makes conclusory statements that he is not  
12 able to prepare in the remaining time from today until  
13 January 16, 2025, but he provides no detail or factual basis to  
14 support that assertion.

15 As of right now, two very discrete issues are set for  
16 trial: The Homestead exemption issue and the ownership of the  
17 World Series rings. At most, a couple of witnesses would need  
18 to be prepared.

19 Plaintiffs' counsel represents that at present they  
20 believe that they only need two witnesses, one of which is the  
21 defendant, the other is the defendant's son.

22 The Court set these matters for trial on October 17,  
23 2024 in the Homestead action, see docket number 47, and October  
24 21, 2024 in the turnover action, see docket number 61. The  
25 trial has been discussed and planned for at multiple hearings.

1 Neither defendant nor his counsel have been heard to object to  
2 that date. See Homestead action, docket numbers 73, 88  
3 (hearing transcripts).

4 The defendant's social calendar does not constitute  
5 good cause under Rule 16, nor does his voluntary submission of  
6 substitution of counsel.

7 The Court would be prepared to accelerate the trial to  
8 January 13 or 14, if it works for both parties and if an  
9 application is made for trial to be accelerated to those dates.  
10 If any such application is made, it must be made by this coming  
11 Monday.

12 With respect to the contempt motion, suffice it to say  
13 that a party cannot manufacture good cause by engaging in  
14 conduct that its adversary believes gives rise to a motion for  
15 contempt. In addition, I'm informed that there has been no  
16 request for an extension of the contempt hearing in the other  
17 court. Therefore, it does not provide good cause for an  
18 extension of this case.

19 Next issue is the motion for expedited discovery  
20 deadline in the turnover action.

21 Mr. Cammarata, do you wish to be heard with respect to  
22 that?

23 MR. CAMMARATA: I believe that's the plaintiffs'  
24 application. I'd like to hear his application first, and then  
25 if I may respond.

1 THE COURT: You may do so.

2 Mr. Aaron or your colleague.

3 MR. NATHAN: Thank you, your Honor.

4 We have sought this relief already with respect to the  
5 Homestead action, and our request now is that discovery  
6 requests served in connection with the miscellaneous  
7 enforcement proceeding be given the same treatment, that is,  
8 that all responses, objections, and productions made along with  
9 responses and objections be served within 14 days.

10 We have laid out in our letter motion why we believe  
11 there is good cause in these circumstances, and I think what it  
12 comes down to is that if the defendant believes that more time  
13 is required to prepare adequate responses, he is free to seek  
14 that relief from this court. And if there is a reason for it,  
15 then this Court, I presume, would grant that relief.

16 In these circumstances we are less than two months  
17 from trial, and the default rule, if it were held at 30 days,  
18 particularly in light of our experience with the defendant's  
19 responses to discovery requests in the Homestead action, where  
20 we have yet to receive anything, we don't think that it would  
21 be possible to efficiently prepare for trial without this  
22 expedited schedule.

23 So for the same reasons that we sought this relief in  
24 the Homestead action, we would ask that the Court grant it  
25 here.

1 THE COURT: Help me with one thing.

2 You served the information subpoenas in connection  
3 with this case, and the law gives you the authority to serve  
4 information subpoenas. Information subpoenas can call for  
5 documents or they can call for testimony. Under the CPLR,  
6 responses are due within seven days of receipt for an  
7 information subpoena for answers. For depositions initiated by  
8 information subpoenas, the window for compliance is 10 days.

9 Why is it that you need anything from me? Aren't  
10 those provisions self-enforcing? The CPLR indicates that they  
11 are enforceable by contempt. What are you seeking to do  
12 through the Federal Rules of Civil Procedure that you don't  
13 already have through the CPLR?

14 MR. NATHAN: That may just reflect a different  
15 understanding of what the information subpoena authorizes under  
16 5224.

17 But if your Honor believes that we could achieve the  
18 same thing by deeming the request for production that we have  
19 served in connection with the miscellaneous enforcement  
20 proceeding to be served subject to that rule, and that a 10 or  
21 a seven-day deadline would then apply, we would be happy with  
22 that outcome as well.

23 THE COURT: Mr. Cammarata.

24 One more question for you, Mr. Nathan.

25 In terms of what's before me now, I have the assets

1 that were the subject of the turnover order. I have ruled on  
2 those. I have the rings, which were the subject of the  
3 turnover motion to which there is an objection. That's  
4 scheduled for trial. I have got the Homestead action, but  
5 that's in a separate civil number.

6 What is it that you would be seeking to do through the  
7 Federal Rules of Civil Procedure other than evidence with  
8 respect to the rings? It really ties into my question about  
9 the use of information subpoenas, because the Federal Rules of  
10 Civil Procedure are really not what's designed to hunt for  
11 assets. It's the information subpoenas that are designed to  
12 hunt for assets.

13 MR. NATHAN: Understood, your Honor.

14 The major stone that I won't say is unturned, but at  
15 least the contents of which have not been brought before the  
16 Court in a motion for relief yet, has to do with the  
17 defendant's cash and the ways in which he and his associates  
18 have funneled cash away from his personal accounts and into  
19 LLCs that we contend are, at a minimum, designed to keep those  
20 cash assets away from creditors in an improper way. We have  
21 been stymied in our attempts to develop all the facts that  
22 would be relevant to this motion, which we would hope to be  
23 able to bring before the Court and tee up any disputed factual  
24 issues for trial on the same schedule.

25 The federal rules give us a little bit more nationwide

1 scope in investigating a scheme that now includes bank accounts  
2 opened in New Hampshire, an LLC formed in Florida, cash held in  
3 that LLC's name in Florida. We believe that the scope of the  
4 CPLR is quite broad and would give us rights to the discovery  
5 we would need.

6 But the Federal Rules of Civil Procedure are  
7 indisputably available to us to seek discovery in any district  
8 of the United States where we believe relevant information  
9 could be found. There would be issues to be sorted out in  
10 either case, and particularly with respect to third-party  
11 discovery. That's the avenue we have chosen.

12 I would add, also -- this isn't news to your Honor,  
13 but we have the option, under Rule 69, to use federal or state  
14 procedures in an execution proceeding. That's just the way we  
15 have done it so far.

16 THE COURT: If the only issues for trial are the  
17 Homestead and the rings and part of the justification for  
18 expedited discovery is the January 16 trial, if I close the  
19 January 16 trial and just make it about rings and about the  
20 Homestead, then why would you need expedited discovery with  
21 respect to the rest, and what's the justification for that?

22 MR. NATHAN: I think plaintiffs are interested in  
23 proceeding as quickly as possible with respect to everything,  
24 and it has been our hope that we could tee up the cash and the  
25 money issues for trial. If the Court's view is that's not

1 practical at this point, of course the trial won't close the  
2 book on this enforcement proceeding until we are able to  
3 resolve those disputes.

4 If that's the solution, then we would just leave those  
5 issues open. I think the downside to that approach is that it  
6 could potentially lead to a second deposition of the defendant.  
7 It could also lead us down a path where we continue to be  
8 strung along by the defendant's efforts to, you know, open a  
9 new LLC as soon as the old one was frozen. We have seen that  
10 occur already in these proceedings, and the relief that we  
11 would like to seek in connection with the cash assets we hope  
12 would put a stop to that.

13 THE COURT: Let me turn to you, Mr. Cammarata.

14 Mr. Cammarata, one of my objectives has been to try to  
15 resolve the issues that are presented here expeditiously so  
16 your client only has to sit for one deposition and so that,  
17 frankly, you're done with me. As soon as the issues can be  
18 discovered, it can be done expeditiously, they are discovered,  
19 you get rulings, you do whatever you want in terms of appeal  
20 with respect to the rulings, but the matter is tried.

21 With that in mind, why shouldn't there be a 14-day  
22 turnaround for discovery requests? In the information  
23 subpoenas and the like, there is -- they could proceed by way  
24 of the CPLR, and that has even a shorter timetable.

25 MR. CAMMARATA: Your Honor, I believe the CPLR to say

1 that if an information subpoena is served on a party, there is  
2 a 10-day period that the party can object to the subpoena  
3 before any production.

4 I'm seeing that plaintiffs' counsel, in one sense,  
5 wants to use the Federal Rules of Civil Procedure and sometimes  
6 the CPLR and whatever suits their need.

7 What I just heard from plaintiffs' counsel is that  
8 there is a laundry list of additional discovery demands that  
9 exceed the scope of this trial that's coming down the pipeline,  
10 something that in ordinary litigation would take months.

11 He is speaking about entities, which my client  
12 categorically denies. He speaks about entities and transfer of  
13 funds and bank accounts and associates. That sounds of  
14 something that cannot be done before this trial, and it seems  
15 that this deposition is going to go well beyond the scope of  
16 what is before your Honor in the January trial, whether it be  
17 13th and 14th or 16th.

18 I would ask the Court to limit the deposition to the  
19 issues that are before the Court because this sounds like it's  
20 a continuing, ongoing fishing expedition to put my client  
21 through extensive and protracted litigation. He mentioned  
22 associates and entities, potentially bringing in other parties  
23 into this litigation in an unrealistic time frame.

24 My client doesn't have transportation now. His car  
25 has been taken. He has limited funds. I think it's Social

1 Security. There are certain disputes of assets that may be  
2 exempt under the CPLR. So if the CPLR is good for the  
3 exemptions and everything else, why are we teetering on the  
4 CPLR or the Federal Rules of Civil Procedure?

5 Discovery shouldn't be shortened. Discovery should be  
6 extended, given the litigation tactics of the plaintiffs'  
7 counsel. They have 10 attorneys working on this file.

8 THE COURT: Your client's claims of poverty, when  
9 there hasn't been any evidence submitted to me to support that,  
10 is not well founded. If you want to make a presentation and  
11 have your client swear under oath with respect to his assets,  
12 then I can listen to it, but it doesn't appear to me that your  
13 client is indigent.

14 MR. CAMMARATA: That's not what I told the Court. His  
15 transportation has been taken, and he is down to one account  
16 that he receives Social Security. I didn't claim that he's  
17 indigent. I don't want that to be before the Court at this  
18 time.

19 What I am claiming is that it has been -- there are  
20 accounts he cannot access, but there is litigation -- there is  
21 a litigation onslaught coming, and we are down to a few issues.  
22 We are down to a few issues. And this is going to go well  
23 beyond -- this is a year or two's worth of litigation, from  
24 what I heard from Mr. Nathan just now, that they are looking to  
25 cram into a period of time between November 26 and January 13.

1 If the deposition is going to be granted and they want  
2 the deposition, it should be limited to the scope of the issues  
3 before the Court. The Court has said, it is the World Series  
4 rings, the Homestead, and any property that's disputed that may  
5 be being held right now is how I perceive it. This is a  
6 fishing expedition to go further and further and bring other  
7 parties into this, simply -- if that's their wish, the trial  
8 needs to be extended.

9 THE COURT: You understand, Mr. Cammarata, that the  
10 implication of what you're arguing is that your client very  
11 well may be subject to a second deposition.

12 MR. CAMMARATA: That's not what I'm saying, your  
13 Honor.

14 THE COURT: Do you understand that if I accept the  
15 proposition that you're arguing, and there is a request for a  
16 deposition in connection with other assets, Rule 69 provides  
17 very broad discovery, and you won't be heard to say that my  
18 client should not be subject to a second deposition. By  
19 limiting the scope of the first deposition, you are opening  
20 yourself up to a second deposition. I had tried to avoid that  
21 for you. I hear you arguing, Judge, thank you very much, but  
22 we don't need your help on this.

23 MR. CAMMARATA: That's not what I'm saying, your  
24 Honor. I'm saying that to cram all of this in before this  
25 strict trial date, it's designed to set up a failure for the

1 defense. There is new -- the way I heard Mr. Nathan --

2 THE COURT: Whether you hear it or not, I have said  
3 it, and what I've said is that if the deposition is limited in  
4 scope, then what's not -- what does not fall within that scope  
5 will be subject to a second deposition. I have said it. I  
6 don't need you to confirm for me that you understand it. You  
7 are presumed to understand it.

8 I can rule with respect to this.

9 I am going to grant the motion in part and deny it in  
10 part.

11 The Federal Rules of Civil Procedure expressly provide  
12 that the Court may shorten the time for responses to discovery.  
13 That's Rules 33(b)(2), 34(b)(2)(a), 36(a)(3).

14 In the Homestead action, the Court ordered "all  
15 discovery requests be responded to within 14 days of service,  
16 including responses and objections, as well as document  
17 production, pursuant to Federal Rule of Civil Procedure 34.  
18 Again, that's at docket number 53.

19 The default rules for responding to information  
20 subpoenas issued pursuant to CPLR 5224 in a judgment  
21 enforcement action require responses within seven days of  
22 receipt. New York CPLR 5224(a)(3). For depositions initiated  
23 by information subpoena, the window for compliance is 10 days.  
24 New York CPLR 5224(c).

25 The 14-day window proposed by plaintiffs is generous

1 in comparison to the requirements of New York state procedure  
2 and judgment enforcement, which, as this Court has already  
3 stated, is supposed to move expeditiously. See Reilly Practice  
4 Commentaries. "The information subpoena of CPLR 5224(a)(3) is  
5 designed to get information to the judgment creditor about the  
6 scope and whereabouts of the debtor's property expeditiously.

7 With respect to the World Series rings, the request is  
8 well-founded for expedited discovery. Trial is scheduled for  
9 January 16. Responses are necessary to the discovery requests,  
10 both responses and objections and the production of documents,  
11 in order to satisfy that timetable.

12 If, based on a particular request, the defendant needs  
13 additional time, the defendant may move by letter motion for a  
14 protective order granting him additional time, but he must do  
15 so before the due date for the discovery response, not  
16 afterwards. Letter motions must comply with the Court's  
17 individual practices. Response letters are due two days later.  
18 If the letter motion is filed after the due date for discovery  
19 response, it will be disregarded. If there is no timely  
20 response to a request for a protective order, the motion for a  
21 protective order will be deemed unopposed. Consult my  
22 individual practices if you need further clarification.

23 With respect to topics other than World Series rings  
24 and other than the Florida Homestead, which is covered by my  
25 order in the Homestead action, those will be covered by the

1 CPLR compliance with which is required by law, and failure to  
2 comply with is punishable by contempt.

3 Discovery responses may also be served under the  
4 Federal Rules of Civil Procedure because Rule 69 permits the  
5 parties to use alternative means of the CPLR, or the Federal  
6 Rules of Civil Procedure. But with respect to matters other  
7 than the World Series rings and other than the Homestead, the  
8 timetable under the Federal Rules of Civil Procedure will  
9 apply.

10 This order is subject to revision should it turn out  
11 that the defendant or, for that matter, and the plaintiffs, if  
12 there are requests of the plaintiffs, seem to be foot dragging.

13 Information subpoenas to Mr. Giuliani, the Giuliani  
14 entities and third parties. I think this is addressed to  
15 Mr. Nathan's colleague, if I'm not mistaken, but maybe it's to  
16 Mr. Nathan.

17 As I read the correspondence to the Court, the motions  
18 to compel are moot, is that correct, and are there issues to  
19 raise with respect to those?

20 MR. NATHAN: Not at this time. We have asked that our  
21 motions be withdrawn or denied without prejudice to renewal.

22 THE COURT: That motion is granted. They are denied  
23 without prejudice to renewal, and I will note that on the  
24 docket.

25 Are there other matters that the plaintiffs have to

1 raise with the Court?

2 MR. NATHAN: Your Honor, I think we have laid out in  
3 our prior correspondence with the Court the two other  
4 outstanding issues, one involving the compliance with the  
5 turnover order and the revised instructions that were delivered  
6 to the defendant on Friday following the events of the CTS and  
7 America's First Warehouse.

8 With respect to those instructions, I mentioned this  
9 in connection with the extension motion, but I do want to  
10 emphasize that those directives included deadlines as of this  
11 court appearance for the defendant to produce information  
12 regarding the location of certain specific assets or explain by  
13 yesterday at 3 p.m. why he would be unable to do so.

14 Those deadlines have both passed without compliance,  
15 and at this point the plaintiffs are in a position where we  
16 have sort of run out of patience. There has just been delay,  
17 extension, and then ultimately no compliance.

18 There are several other directives where the deadlines  
19 are still outstanding, but we have already crossed the  
20 threshold where the defendant has not complied with the  
21 directives. I can be more specific. That involves our  
22 requests for information regarding the specific locations of  
23 the sports memorabilia, including the Joe DiMaggio jersey, the  
24 art mentioned in the turnover order, the cash held in the  
25 Citibank account, which has yet to be wired to the plaintiffs,

1 and no explanation given for why that is impossible, and the  
2 car title, which we have not received and which defendant's  
3 counsel has represented to me is not in his possession. But,  
4 nonetheless, we have not heard an explanation for why the title  
5 has disappeared and not been turned over.

6 THE COURT: Mr. Cammarata, as to the car title, my  
7 glance, and it was just a glance, at the Florida counterparts  
8 to the department of motor vehicles indicates that if your  
9 client lost the title paper, you can apply for a new one pretty  
10 readily. You certainly can do that in New York.

11 The way I hear this going, with Mr. Nathan's  
12 presentation, is that there very well may come a time where you  
13 are required to show that you actually have made substantial  
14 efforts to comply with the Court's orders. I think you  
15 understand where I'm going with respect to that. If I need to  
16 be more explicit, I will. But just a word of advice or  
17 caution, which is, if you haven't made those efforts, you may  
18 be putting the Court in a place that the Court, and I think  
19 everybody here -- the Court would rather not be in, and I'm  
20 sure that everybody here would rather not be in.

21 MR. CAMMARATA: My client has made efforts as far as  
22 the car is concerned, and the car has been turned over already.

23 THE COURT: But the car and keys without the title is  
24 really meaningless.

25 MR. CAMMARATA: Once we are in receipt of the title

1 from Florida state, we will turn it over immediately.

2 There are also documents I received today from the  
3 plaintiff as far as a power of attorney, which I need to look  
4 at, and also for the shares of the co-op, which my client  
5 intends to execute.

6 Again, my client has been extremely cooperative with  
7 my advice as counsel and my direction, which prior counsel had  
8 left him in what I believe --

9 THE COURT: As you know, I had the application from  
10 prior counsel, and I don't accept the notion that there was  
11 cause for prior counsel to withdraw. Your client elected to  
12 have new counsel. But there wasn't cause for them to withdraw.

13 MR. CAMMARATA: I understand. My client was left by  
14 that counsel. He was shocked when the motion was filed. He  
15 didn't --

16 THE COURT: Your client is a competent person. He was  
17 the United States Attorney for this district. The notion that  
18 he can't apply for a title certificate for the car is --

19 MR. GIULIANI: Your Honor, I did apply for a title  
20 certificate, and I have not gotten it. And your implication  
21 that I have been not diligent about it is totally incorrect. I  
22 applied for it immediately, and I have not gotten it. What am  
23 I supposed to do, make it up myself? Every implication you  
24 make is against me, and every single one of them is wrong, and  
25 you don't let me explain my financial situation.

1 I'm not impoverished. Everything I have is tied up.  
2 I don't have a car. I don't have a credit card. I don't have  
3 cash. I can't get to bank accounts that truly would be mine  
4 because they have put -- they have put stop orders on, for  
5 example, my Social Security account, which they have no right  
6 to do. That has -- they have put stop orders on my business  
7 accounts. I can't pay my bills. I don't have a penny that  
8 isn't tied up by them.

9 THE COURT: I permitted Mr. Giuliani to speak. The  
10 next time he is not going to be permitted to speak, and the  
11 Court will have to take action.

12 He is ably represented by counsel, or he is permitted  
13 to proceed *pro se*. He can't have hybrid representation.

14 And if you want your client to take the stand and be  
15 subject to deposition, he is nodding his head, we can have him  
16 take the stand at some future proceeding.

17 MR. GIULIANI: Somebody has to tell the truth.

18 THE COURT: It won't be in lieu of a deposition.

19 Mr. Cammarata, what more do you have to say to me?

20 MR. CAMMARATA: As far as Citibank is concerned, I  
21 believe my office sent a letter to Citibank for what funds they  
22 have to release. My client cannot be held responsible if the  
23 money wasn't wired. I will follow up with Citibank.

24 I will deal with my client as far as following up with  
25 the title through the state. But my client has complied --

1 THE COURT: There should be no higher priority for  
2 your client right now than complying with the Court's orders,  
3 period.

4 MR. CAMMARATA: I understand, your Honor.

5 THE COURT: Anything further?

6 MR. CAMMARATA: Nothing further.

7 THE COURT: Anything further from you, Mr. Nathan?

8 MR. NATHAN: No, your Honor.

9 THE COURT: There is one other thing that I have got,  
10 which is, with respect to the trial on January 16, I should  
11 have a date for the submission of proposed witnesses,  
12 essentially for a joint pretrial order.

13 A joint pretrial order will be due January 6. With  
14 that there can be motions *in limine*. If there are responses to  
15 the motions *in limine*, those responses are due January 10.

16 Anything else from plaintiff?

17 MR. NATHAN: Your Honor, maybe this is coming down the  
18 line, but I think at one of our prior conferences your Honor  
19 mentioned proposed findings of fact and conclusions of law.

20 THE COURT: Those should be submitted with the joint  
21 pretrial order on January 6.

22 Mr. Cammarata, anything further from you?

23 MR. CAMMARATA: Nothing, your Honor. Thank you.

24 THE COURT: We are adjourned. Thank you.

25 (Adjourned)